

(2) **TECHNICAL ASSISTANCE.**—The agreement required by paragraph (1) shall—

(A) specify the kind of technical assistance to be provided under the program;

(B) include appropriate provisions regarding information sharing among the territories; and

(C) delineate the oversight role and responsibilities of the territories and the Secretary.

(3) **REVIEW AND REVISION OF AGREEMENT.**—The agreement entered into under paragraph (1) shall be reevaluated and, as necessary, revised, at least every 2 years.

(4) **EXISTING AGREEMENTS.**—With respect to an agreement under the section between the Secretary and the chief executive officer of a territory that is in effect as of the date of enactment of the SAFETEA-LU—

(A) the agreement shall continue in force until replaced by an agreement entered into in accordance with paragraph (1); and

(B) amounts made available for the program under the existing agreement shall be available for obligation or expenditure so long as the agreement, or the existing agreement entered into under paragraph (1), is in effect.

(f) **PERMISSIBLE USES OF FUNDS.**—

(1) **IN GENERAL.**—Funds made available for the program may be used only for the following projects and activities carried out in a territory:

(A) Eligible surface transportation program projects described in section 133(b).

(B) Cost-effective, preventive maintenance consistent with section 116(d).

(C) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

(D) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

(E) Studies of the economy, safety, and convenience of highway use.

(F) The regulation and equitable taxation of highway use.

(G) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

(2) **PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.**—None of the funds made available for the program shall be obligated or expended for routine maintenance.

(g) **LOCATION OF PROJECTS.**—Territorial highway projects (other than those described in paragraphs (1), (3), and (4) of section 133(b)) may not be undertaken on roads functionally classified as local.

(Added Pub. L. 109-59, title I, §1118(a), Aug. 10, 2005, 119 Stat. 1179.)

#### REFERENCES IN TEXT

The date of enactment of the SAFETEA-LU, referred to in subsec. (e)(1), (4), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

#### PRIOR PROVISIONS

A prior section 215, added Pub. L. 91-605, title I, §112(a), Dec. 31, 1970, 84 Stat. 1720; amended Pub. L.

95-599, title I, §129(f), Nov. 6, 1978, 92 Stat. 2708; Pub. L. 96-106, §9, Nov. 9, 1979, 93 Stat. 798; Pub. L. 100-17, title I, §133(b)(16), Apr. 2, 1987, 101 Stat. 172, related to territorial highway program, prior to repeal by Pub. L. 109-59, title I, §1118(a), Aug. 10, 2005, 119 Stat. 1179.

### § 216. Darien Gap Highway

(a) The United States shall cooperate with the Government of the Republic of Panama and with the Government of Colombia in the construction of approximately two hundred and fifty miles of highway in such countries in the location known as the “Darien Gap” to connect the Inter-American Highway authorized by section 212 of this title with the Pan American Highway System of South America. Such highway shall be known as the “Darien Gap Highway”. Funds authorized by this section shall be obligated and expended subject to the same terms, conditions, and requirements with respect to the Darien Gap Highway as are funds authorized for the Inter-American Highway by subsection (a) of section 212 of this title.

(b) The construction authorized by this section shall be under the administration of the Secretary, who shall consult with the appropriate officials of the Department of State with respect to matters involving the foreign relations of this Government, and such negotiations with the Governments of the Republic of Panama and Colombia as may be required to carry out the purposes of this section shall be conducted through, or authorized by, the Department of State.

(c) The provisions of this section shall not create nor authorize the creation of any obligations on the part of the Government of the United States with respect to any expenditures for highway survey or construction heretofore or hereafter undertaken in Panama or Colombia, other than the expenditures authorized by the provision of this section.

(d) Appropriations made pursuant to any authorization for the Darien Gap Highway shall be available for expenditure by the Secretary for necessary administrative and engineering expenses in connection with the Darien Gap Highway program.

(e) For the purposes of this section the term “construction” does not include any costs of rights-of-way, relocation assistance, or the elimination of hazards of railway grade crossings.

(Added Pub. L. 91-605, title I, §113(a), Dec. 31, 1970, 84 Stat. 1721.)

#### AUTHORIZATION OF APPROPRIATIONS

Section 113(c) of Pub. L. 91-605 provided that: “There is hereby authorized to be appropriated not to exceed \$100,000,000, to remain available until expended to enable the Secretary of Transportation to carry out section 216 of title 23, United States Code.”

### § 217. Bicycle transportation and pedestrian walkways

(a) **USE OF STP AND CONGESTION MITIGATION PROGRAM FUNDS.**—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(3) of this title for construction of pedestrian walkways and bicycle transportation fa-

cilities and for carrying out nonconstruction projects related to safe bicycle use.

(b) **USE OF NATIONAL HIGHWAY SYSTEM FUNDS.**—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of this title for construction of pedestrian walkways and bicycle transportation facilities on land adjacent to any highway on the National Highway System.

(c) **USE OF FEDERAL LANDS HIGHWAY FUNDS.**—Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities.

(d) **STATE BICYCLE AND PEDESTRIAN COORDINATORS.**—Each State receiving an apportionment under sections 104(b)(2) and 104(b)(3) of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation a position of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

(e) **BRIDGES.**—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

(f) **FEDERAL SHARE.**—For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be determined in accordance with section 120(b).

(g) **PLANNING AND DESIGN.**—

(1) **IN GENERAL.**—Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively. Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

(2) **SAFETY CONSIDERATIONS.**—Transportation plans and projects shall provide due consideration for safety and contiguous routes for bicyclists and pedestrians. Safety considerations shall include the installation, where appropriate, and maintenance of audible traffic signals and audible signs at street crossings.

(h) **USE OF MOTORIZED VEHICLES.**—Motorized vehicles may not be permitted on trails and pedestrian walkways under this section, except for—

- (1) maintenance purposes;
- (2) when snow conditions and State or local regulations permit, snowmobiles;

(3) motorized wheelchairs;

(4) when State or local regulations permit, electric bicycles; and

(5) such other circumstances as the Secretary deems appropriate.

(i) **TRANSPORTATION PURPOSE.**—No bicycle project may be carried out under this section unless the Secretary has determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

(j) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **BICYCLE TRANSPORTATION FACILITY.**—The term “bicycle transportation facility” means a new or improved lane, path, or shoulder for use by bicyclists and a traffic control device, shelter, or parking facility for bicycles.

(2) **ELECTRIC BICYCLE.**—The term “electric bicycle” means any bicycle or tricycle with a low-powered electric motor weighing under 100 pounds, with a top motor-powered speed not in excess of 20 miles per hour.

(3) **PEDESTRIAN.**—The term “pedestrian” means any person traveling by foot and any mobility-impaired person using a wheelchair.

(4) **WHEELCHAIR.**—The term “wheelchair” means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or motorized.

(Added Pub. L. 93-87, title I, §124(a), Aug. 13, 1973, 87 Stat. 262; amended Pub. L. 94-280, title I, §134, May 5, 1976, 90 Stat. 441; Pub. L. 95-599, title I, §141(h), Nov. 6, 1978, 92 Stat. 2712; Pub. L. 97-424, title I, §126A, formerly §126, Jan. 6, 1983, 96 Stat. 2116, renumbered §126A, Pub. L. 100-17, title I, §133(a)(2), Apr. 2, 1987, 101 Stat. 170; Pub. L. 100-17, title I, §127, Apr. 2, 1987, 101 Stat. 167; Pub. L. 102-240, title I, §1033, Dec. 18, 1991, 105 Stat. 1975; Pub. L. 104-59, title III, §310(b), Nov. 28, 1995, 109 Stat. 582; Pub. L. 105-178, title I, §1202(a), June 9, 1998, 112 Stat. 168; Pub. L. 109-59, title I, §1954, Aug. 10, 2005, 119 Stat. 1515.)

#### AMENDMENTS

2005—Subsec. (c). Pub. L. 109-59 struck out “in conjunction with such trails, roads, highways, and parkways” before period at end.

1998—Subsec. (b). Pub. L. 105-178, §1202(a)(1), inserted “pedestrian walkways and” after “construction of” and struck out “(other than the Interstate System)” after “on the National Highway System”.

Subsec. (e). Pub. L. 105-178, §1202(a)(2), struck out “, other than a highway access to which is fully controlled,” after “located on a highway”.

Subsec. (g). Pub. L. 105-178, §1202(a)(3), added subsec. (g) and struck out heading and text of former subsec. (g). Text read as follows: “Pedestrian walkways and bicycle transportation facilities to be constructed under this section shall be located and designed pursuant to an overall plan to be developed by each metropolitan planning organization and State and incorporated into their comprehensive annual long-range plans in accordance with sections 134 and 135 of this title, respectively. Such plans shall provide due consideration for safety and contiguous routes.”

Subsec. (h). Pub. L. 105-178, §1202(a)(4), substituted “Motorized vehicles may not” for “No motorized vehicles shall” in introductory provisions.

Subsec. (h)(3). Pub. L. 105-178, §1202(a)(5), substituted “motorized wheelchairs;” for “when State and local regulations permit, motorized wheelchairs; and”.

Subsec. (h)(4), (5). Pub. L. 105-178, §1202(a)(6), added par. (4) and redesignated former par. (4) as (5).

Subsec. (j). Pub. L. 105-178, §1202(a)(7), added subsec. (j) and struck out heading and text of former subsec. (j). Text read as follows: "For purposes of this section, a 'bicycle transportation facility' means new or improved lanes, paths, or shoulders for use by bicyclists, traffic control devices, shelters, and parking facilities for bicycles."

1995—Subsec. (f). Pub. L. 104-59 substituted "determined in accordance with section 120(b)" for "80 percent".

1991—Pub. L. 102-240 substituted "walkways" for "walkway" in section catchline and amended text generally, substituting present provisions for provisions authorizing States to construct pedestrian walkways and bicycle lanes, paths, etc., as Federal-aid highway projects, relating to safe accommodation of bicycles on bridge with deck replaced or rehabilitated with Federal participation, prohibiting bicycle project under this section unless principally for transportation purposes, deeming walkway and bicycle projects as highway projects and setting Federal share at 100 per centum, allowing use of funds authorized for forest highways, forest development roads and trails, etc., for construction of walkways and bicycle routes, prohibiting use of motor vehicles on trails and walkways, and relating to obligation of funds.

1987—Subsec. (b)(1). Pub. L. 100-17 inserted "and sums apportioned or allocated for highway substitute projects in accordance with section 103(e)(4) of this title" after "title" in second sentence.

1983—Subsec. (a). Pub. L. 97-424 designated as subsec. (a) that portion of former subsec. (a) relating to pedestrian walkways. Remainder of former subsec. (a) relating to bicycles was redesignated (b)(1).

Subsec. (b). Pub. L. 97-424 redesignated as par. (1) that portion of former subsec. (a) relating to bicycles and added pars. (2) and (3). Provisions of former subsec. (b) relating to pedestrian walkways and bicycles projects were redesignated (c) and (d), respectively.

Subsec. (c). Pub. L. 97-424 redesignated as subsec. (c) that portion of former subsec. (b) relating to pedestrian walkways. Provisions of former subsec. (c) relating to pedestrian walkways and to bicycle routes were redesignated (e) and (f), respectively.

Subsec. (d). Pub. L. 97-424 redesignated as subsec. (d) that portion of former subsec. (b) relating to bicycle projects. Former subsec. (d) redesignated (g).

Subsec. (e). Pub. L. 97-424 redesignated as subsec. (e) that portion of former subsec. (c) relating to pedestrian walkways. Former subsec. (e) redesignated (h) and amended.

Subsec. (f). Pub. L. 97-424 redesignated as subsec. (f) that portion of former subsec. (c) relating to bicycle routes.

Subsec. (g). Pub. L. 97-424 redesignated former subsec. (d) as (g).

Subsec. (h). Pub. L. 97-424 redesignated former subsec. (e) as (h), substituted reference to subssecs. (a), (b), (e), and (f) of this section for reference to former subssecs. (a) and (c), and substituted provision that no State shall obligate more than \$4,500,000 for such projects in any fiscal year, except that the Secretary may, upon application, waive this limitation for a State for any fiscal year for provision that no State was to obligate more than \$2,500,000 for such projects for any fiscal year.

1978—Subsec. (a). Pub. L. 95-599 inserted provision relating to energy conservation and struck out requirement that such construction be in conjunction with Federal-aid highways.

1976—Subsec. (e). Pub. L. 94-280 substituted "\$45,000,000" for "\$40,000,000" and "\$2,500,000" for "\$2,000,000".

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section

1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

#### NONMOTORIZED TRANSPORTATION PILOT PROGRAM

Pub. L. 109-59, title I, §1807, Aug. 10, 2005, 119 Stat. 1460, as amended by Pub. L. 110-244, title I, §106, June 6, 2008, 122 Stat. 1602, provided that:

"(a) ESTABLISHMENT.—The Secretary [of Transportation] shall establish and carry out a nonmotorized transportation pilot program to construct, in the following 4 communities selected by the Secretary, a network of nonmotorized transportation infrastructure facilities, including sidewalks, bicycle lanes, and pedestrian and bicycle trails, that connect directly with transit stations, schools, residences, businesses, recreation areas, and other community activity centers:

"(1) Columbia, Missouri.

"(2) Marin County, California.

"(3) Minneapolis, Minnesota.

"(4) Sheboygan County, Wisconsin.

"(b) PURPOSE.—The purpose of the program shall be to demonstrate the extent to which bicycling and walking can carry a significant part of the transportation load, and represent a major portion of the transportation solution, within selected communities.

"(c) GRANTS.—In carrying out the program, the Secretary [of Transportation] may make a grant of \$6,250,000 per fiscal year for each of the communities set forth in subsection (a) to State, local, and regional agencies that the Secretary determines are suitably equipped and organized to carry out the objectives and requirements of this section. An agency that receives a grant under this section may suballocate grant funds to a nonprofit organization to carry out the program under this section.

"(d) STATISTICAL INFORMATION.—In carrying out the program, the Secretary [of Transportation] shall develop statistical information on changes in motor vehicle, nonmotorized transportation, and public transportation usage in communities participating in the program and assess how such changes decrease congestion and energy usage, increase the frequency of bicycling and walking, and promote better health and a cleaner environment.

"(e) REPORTS.—The Secretary [of Transportation] shall submit to Congress an interim report not later than September 30, 2007, and a final report not later than September 30, 2010, on the results of the program.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), \$25,000,000 for each of fiscal years 2006 through 2009.

"(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the project shall be 100 percent, and the funds shall remain available until expended and shall not be transferable.

"(g) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects assisted under this subsection shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code."

#### DESIGN GUIDANCE

Pub. L. 105-178, title I, §1202(b), June 9, 1998, 112 Stat. 169, provided that:

"(1) IN GENERAL.—In implementing section 217(g) of title 23, United States Code, the Secretary, in cooperation with the American Association of State Highway and Transportation Officials, the Institute of Transportation Engineers, and other interested organizations, shall develop guidance on the various approaches to accommodating bicycles and pedestrian travel.

"(2) ISSUES TO BE ADDRESSED.—The guidance shall address issues such as the level and nature of the demand,

volume, and speed of motor vehicle traffic, safety, terrain, cost, and sight distance.

“(3) RECOMMENDATIONS.—The guidance shall include recommendations on amending and updating the policies of the American Association of State Highway and Transportation Officials relating to highway and street design standards to accommodate bicyclists and pedestrians.

“(4) TIME PERIOD FOR DEVELOPMENT.—The guidance shall be developed within 18 months after the date of enactment of this Act [June 9, 1998].”

#### ENERGY CONSERVATION BICYCLE TRANSPORTATION PROGRAM; REPORT

Pub. L. 95-619, title VI, § 682, Nov. 9, 1978, 92 Stat. 3287, set forth findings respecting an energy conservation bicycle transportation program and required a study and report not more than one year after Nov. 9, 1978, by the Secretary of Transportation for bicycle use potential, etc.

#### BIKEWAY CONSTRUCTION PROJECTS

Section 141(a)–(e), (i) of Pub. L. 95-599, related to establishment by Secretary of design and construction standards for bikeway construction projects and to grants to States for bikeway construction projects, prior to repeal by Pub. L. 100-17, title I, § 133(e)(2), Apr. 2, 1987, 101 Stat. 173.

#### BIKEWAY DEMONSTRATION PROGRAM

Pub. L. 93-643, § 119, Jan. 4, 1975, 88 Stat. 2288, authorized grants to States for demonstration projects for construction of bikeways, prior to repeal by Pub. L. 100-17, title I, § 133(e)(2), Apr. 2, 1987, 101 Stat. 173.

### § 218. Alaska Highway

(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to Haines, the Secretary is authorized out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended. Notwithstanding any other provision of law, in addition to such funds, upon agreement with the State of Alaska, the Secretary is authorized to expend on such highway or the Alaska Marine Highway System any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum. Notwithstanding any other provision of law, any obligation limitation enacted for fiscal year 1983 or for any other fiscal year thereafter, including any portion of any other fiscal year thereafter, shall not apply to projects authorized by the preceding sentence. No expenditures shall be made for the construction of the portion of such highways that are in Canada until an agreement has been reached by the Government of Canada and the Government of the United States which shall provide, in part, that the Canadian Government—

(1) will provide, without participation of funds authorized under this title, all necessary right-of-way for the reconstruction of such highways;

(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use

of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

(b) The survey and construction work undertaken in Canada pursuant to this section shall be under the general supervision of the Secretary.

(c) For purposes of this section, the term “Alaska Marine Highway System” includes all existing or planned transportation facilities and equipment in Alaska, including the lease, purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges and approaches thereto, and necessary roads.

(Added Pub. L. 93-87, title I, § 127(a)(1), Aug. 13, 1973, 87 Stat. 264; amended Pub. L. 94-147, Dec. 12, 1975, 89 Stat. 803; Pub. L. 97-424, title I, § 158, Jan. 6, 1983, 96 Stat. 2135; Pub. L. 105-277, div. A, § 101(g) [title III, § 316], Oct. 21, 1998, 112 Stat. 2681-439, 2681-468; Pub. L. 108-7, div. I, title III, § 327, Feb. 20, 2003, 117 Stat. 413; Pub. L. 109-59, title IV, § 4409, Aug. 10, 2005, 119 Stat. 1778.)

#### AMENDMENTS

2005—Subsec. (a). Pub. L. 109-59, § 4409(1), struck out “prior to the date of the enactment of the reauthorization of the Transportation Equity Act for the 21st Century” before “shall not apply” in introductory provisions.

Subsec. (c). Pub. L. 109-59, § 4409(2), added subsec. (c).

2003—Subsec. (a). Pub. L. 108-7 inserted “reauthorization of the” before “Transportation”.

1998—Subsec. (a). Pub. L. 105-277, § 101(g) [title III, § 316(1)(A)], substituted “to Haines” for “to the south Alaskan border” in first sentence, substituted “such highway or the Alaska Marine Highway System” for “such highway” in third sentence, substituted “any other fiscal year thereafter, including any portion of any other fiscal year thereafter, prior to the date of the enactment of the Transportation Equity Act for the 21st Century” for “any other fiscal year thereafter” in fourth sentence, substituted “construction of the portion of such highways that are in Canada until an agreement” for “construction of such highways until an agreement” in fifth sentence.

Subsec. (b). Pub. L. 105-277, § 101(g) [title III, § 316(2)], inserted “in Canada” after “undertaken”.

1983—Subsec. (a). Pub. L. 97-424 inserted provision that notwithstanding any other provision of law, upon agreement with the State of Alaska, the Secretary is authorized to expend on the highway any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum, and that any obligation limitation enacted for fiscal year 1983 or for any other fiscal year thereafter shall not apply to such projects.

1975—Subsec. (a)(1). Pub. L. 94-147 struck out provision requiring that the right-of-way granted by the Canadian Government shall forever be held inviolate as part of such highways in public use.

#### ALASKAN ROADS STUDY; INVESTIGATION; REPORT TO CONGRESS

Pub. L. 94-280, title I, § 151, May 5, 1976, 90 Stat. 448, provided that:

“(a) The Secretary of Transportation is authorized to undertake an investigation and study to determine the